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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,920	09/04/2001	Edward F. Gerstenkorn	WSB01-214	2248

7590 09/25/2003

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[REDACTED] EXAMINER

GALL, LLOYD A

ART UNIT	PAPER NUMBER
3676	

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/944,920	GERSTENKORN, EDWARD F.	
	Examiner Lloyd A. Gall	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 June 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 3-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 September 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

In response to the amendment filed on June 10, 2003, it is noted that the substitute specification has not been entered. The substitute specification has not been filed with a no new matter statement as required with a substitute specification. See MPEP 608.01 (q). Applicant should correct the below objections to the specification with a replacement paragraph, as opposed to an entire new specification.

The disclosure is objected to because of the following informalities: On page 10, line 12, "49" should read --41--. On page 10, line 23, "doors" should read --door--. On page 11, line 1, "52" should read --49--.

Appropriate correction is required.

Claim 6 is objected to because of the following informalities: In claim 6, line 13, - -of the—should follow the first occurrence of "one".

Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mech in view of Kasper and Hintz.

Mech teaches Mech teaches a storage safe capable of supporting firearms and other objects on display hooks 60, 66 on the fixed back plate 54 and on a door 16a as seen in fig. 1, a second door 14a, top, bottom and side plates 20, 30, 24, and hinges. In figs. 15 and 16, Kasper teaches that L-shaped doors 75 hinged to a partial side plate are well known in the storage safe environment. Hintz teaches locks and linkages on double doors of a safe. To modify the safe of Mech such that the doors are L-shaped and hinged to partial side plates, would have been obvious in view of the teaching of Kasper, since other well known door types would function just as well in the cabinet of Mech. To modify the cabinet of Mech to include locking bolts and linkages, would have been obvious in view of the teaching of Hintz, to optimize security of the cabinet.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Mech reference as applied to claim1 above, and further in view of Schmitz.

Schmitz teaches that fire resistant materials and seals (y) are well known in the safe environment. To utilize fire resistant materials and seals in the modified safe of Mech would have been obvious in view of the teaching of Schmitz, to protect the contents from fire damage.

Claims 6, 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mech in view of Rice et al.

It is first noted that the last two lines of page 13 are regarded as positively claiming a firearm with the safe. Mech has been discussed above. The Abstract of rice

et al teaches that mounting apparatus in a cabinet for receiving firearms is well known. To modify the safe of Mech to include mounting apparatus for a firearm, would have been obvious in view of the teaching of Rice et al, to store firearms when not in use.

Claims 7, 8, 10-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Mech reference as applied to claims 6 and 14 above, and further in view of Kasper.

Kasper has been discussed above. To modify the cabinet of Mech to include L-shaped doors and partial side plates, would have been obvious in view of the teaching of Kasper, since other well known door types would function just as well in the cabinet of Mech.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Mech reference as applied to claim 15 above, and further in view of Dick et al.

Dick et al teaches heavy steel used in a safe. To utilize heavy steel with the safe of Mech would have been obvious in view of the teaching of Dick et al, to optimize the protection of the contents thereof.

Applicant's arguments filed December 19, 2002 have been fully considered but they are not persuasive. In response to applicant's remarks at the top of page 3, it is not clear what need is being referred to. It is further noted that with respect to all of the REMARKS filed on December 19, 2002, the claims are directed to a storage safe only. The firearms are not being positively claimed. The intended use of the safe with firearms is of no patentable significance. It is further noted that independent claim 1

does not even mention the intended use with firearms. Further, the safe of Mech includes mounting apparatuses which are clearly capable of supporting a firearm. With respect to the remarks on page 3, lines 3-6, it is submitted that particularly with respect to claim 1, the prior art need not teach that individuals were working to improve cases for gun shops at opening and closing. With respect to the commercial success declaration which has been reviewed by the examiner, it is submitted that the declaration does not establish a nexus between the claimed invention and the commercial success of the invention, and is of no patentable significance. See MPEP 716.03.

In response to applicant's arguments throughout the REMARKS based upon the age of the references, contentions that the reference patents are old are not impressive absent a showing that the art tried and failed to solve the same problem notwithstanding its presumed knowledge of the references. See *In re Wright*, 569 F.2d 1124, 193 USPQ 332 (CCPA 1977).

In response to the remarks at the bottom of page 3 and top of page 4, it is noted that Mech does teach multiple points of attachment, that firearms are not being positively claimed, and that the reference to Mech is clearly capable of supporting at least one firearm, if desired. Further, with respect to the argument concerning the mirror of Mech, it is noted that the mounting apparatuses are not being claimed on both doors, and that Mech (page 4, lines 18-19) discloses that the mirror preferably covers only a portion of the door.

Throughout the remarks applicant argues that the door 14 of Mech does not open back on itself to become an extension of the planar back wall. This argument is of no patentable significance, as such a limitation is not being claimed.

In response to the remarks at the bottom of page 4 concerning Hintz, it is noted that no particular door thickness is being claimed, and locking safes /cabinets, particularly a jewelry cabinet of Mech is well known to one of ordinary skill in the art.

The remainder of the remarks on pages 5-6 are of no patentable significance, as it is not clear in what sense the Schmitz, Rice and Dick et al references do not teach their combining with the reference to Mech.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 703-308-0828. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

LG LG
September 24, 2003

Lloyd A. Gall
Lloyd A. Gall
Primary Examiner